

House Bill 400

By: Representatives Jones of the 167th, Powell of the 32nd, Ridley of the 6th, Jasperse of the 11th, Hitchens of the 161st, and others

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Code Section 21-2-417 of the Official Code of Georgia Annotated, relating to
2 presentation of identification to poll workers, form of proper identification, swearing of
3 statement when unable to produce proper identification, provisional ballots for those, and
4 penalty for false statement under oath, so as to provide that certain driver's licenses and
5 identification cards shall not be proper identification for presentation to a poll worker; to
6 amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and
7 traffic, so as to clarify and provide for persons who may obtain certain licenses, permits, or
8 cards; to define a term relative to lawful immigration status of a person; to provide for
9 driver's licenses for persons who possess Employment Authorization Documents from the
10 United States Citizenship and Immigration Services with certain codes thereon which shall
11 operate the same as driver's licenses; to provide for exceptions; to provide for the design of
12 certain drivers' licenses; to provide for special identification cards for persons who possess
13 Employment Authorization Documents from the United States Citizenship and Immigration
14 Services with certain codes thereon; to provide for the design of such special identification
15 cards; to provide for penalties; to require participation of the Department of Driver Services
16 in the Records and Information from DMVs for E-Verify (RIDE) program of the United
17 States Department of Homeland Security; to provide for a short title; to provide for related
18 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

19 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

20 **SECTION 1.**

21 This Act may be known and cited as the "Driver's License, ID Credential, and Voter Security
22 Reform Act."

23 **SECTION 2.**

24 Code Section 21-2-417 of the Official Code of Georgia Annotated, relating to presentation
25 of identification to poll workers, form of proper identification, swearing of statement when

26 unable to produce proper identification, provisional ballots for those, and penalty for false
27 statement under oath, is amended by revising subsection (a) as follows:

28 "(a)(1) Except as provided in subsection (c) of this Code section, each elector shall
29 present proper identification to a poll worker at or prior to completion of a voter's
30 certificate at any polling place and prior to such person's admission to the enclosed space
31 at such polling place.

32 (2) Proper identification required under paragraph (1) of this subsection shall consist:

33 (A) Consist of any one of the following:

34 (1)(i) A Georgia driver's license which was properly issued by the appropriate state
35 agency, except as provided for under subparagraph (B) of this paragraph;

36 (2)(ii) A valid Georgia voter identification card issued under Code Section
37 21-2-417.1 or other valid identification card issued by a branch, department, agency,
38 or entity of the State of Georgia, any other state, or the United States authorized by
39 law to issue personal identification, provided that such identification card contains a
40 photograph of the elector, except as provided for under subparagraph (B) of this
41 paragraph;

42 (3)(iii) A valid United States passport;

43 (4)(iv) A valid employee identification card containing a photograph of the elector
44 and issued by any branch, department, agency, or entity of the United States
45 government, this state, or any county, municipality, board, authority, or other entity
46 of this state;

47 (5)(v) A valid United States military identification card, provided that such
48 identification card contains a photograph of the elector; or

49 (6)(vi) A valid tribal identification card containing a photograph of the elector; and
50 (B) Not consist of a driver's license or identification card as provided for under
51 subsection (a.1) of Code Section 40-5-20 or subsection (d) of Code Section 40-5-21.1."

52 SECTION 3.

53 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
54 amended by adding a new paragraph to Code Section 40-5-1, relating to definitions, to read
55 as follows:

56 "(19) 'Unlawful immigration status EAD code' means a code placed on such Employment
57 Authorization Document that indicates such person is not present in the United States
58 under a lawful immigration status."

59

SECTION 4.

60 Said title is further amended by adding new subsections to Code Section 40-5-20, relating
61 to license required, surrender of prior licenses, and local licenses prohibited, to read as
62 follows:

63 "(a.1)(1) Except as provided for in subsection (a.2) of this Code section, any person
64 possessing an Employment Authorization Document from the United States Citizenship
65 and Immigration Services with an unlawful immigration status EAD code shall obtain a
66 driver's license as provided for in this subsection before operating a motor vehicle in this
67 state. Pursuant to the terms of this subsection, upon payment of the required fee, the
68 department shall issue to every applicant qualifying therefor a driver's license as provided
69 for in this subsection indicating the type or general class of vehicle the applicant may
70 drive. Notwithstanding any other provision of this title and except as otherwise provided
71 for in this subsection, such driver's license shall:

72 (A) In every way operate in like manner for types or classes of vehicles as a United
73 States citizen's driver's license, including but not limited to fees, instructional permits,
74 training, examinations, expirations, restrictions, points, issuances, renewals, and
75 replacements, as if a citizen's driver's license;

76 (B) Be subject to the same carrying, exhibition, reporting, and motor vehicle insurance
77 requirements as a citizen's driver's license;

78 (C) Confer the same privileges and responsibilities for driving a motor vehicle upon
79 a highway in this state as a citizen's driver's license; and

80 (D) Be subject to the same laws and penalties in the law, including but not limited to
81 suspension or revocation, in the same manner as a citizen's driver's license.

82 (2) A driver's license as provided for in this subsection shall be valid only during the
83 period of time of the applicant's having a valid and current Employment Authorization
84 Document from the United States Citizenship and Immigration Services with a code
85 thereon that is not an unlawful immigration status EAD code or five years, whichever
86 occurs first; provided, however, that such applicant shall notify the department within ten
87 days after any change in an EAD code.

88 (3) Prior to the issuance of a driver's license as provided for in this subsection, the
89 department shall obtain the fingerprints of the applicant.

90 (4)(A) In accordance with the REAL ID Act of 2005, 8 U.S.C. Section 1101 et seq.,
91 the department shall distinguish a driver's license as provided for in this subsection
92 from other drivers' licenses issued by the department by the use of a unique design and
93 color.

94 (B) A driver's license as provided for in this subsection shall bear the legend: 'The
95 individual shown hereon has passed the driving skills, knowledge, and vision tests

required by state law.' Such driver's license shall, in white letters displayed on a black banner positioned at the top or bottom, or both, of such driver's license, include the term, 'NOT FOR FEDERAL USE'. Such driver's license shall have a vertical orientation and the term 'NOT U.S. CITIZEN' shall appear vertically along the right side of the photograph of the bearer of such driver's license. Other than as provided for in this paragraph, such driver's license shall contain the same physical characteristics of, and be similar in form to, any other driver's license issued by the department.

(5) The department shall not issue any temporary driving privileges as provided for in subsection (e) of Code Section 40-5-24 to any person who presents an Employment Authorization Document from the United States Citizenship and Immigration Services with an unlawful immigration status EAD code.

(a.2) No person possessing an Employment Authorization Document from the United States Citizenship and Immigration Services with an unlawful immigration status EAD code shall be eligible to obtain a driver's license or a special identification card other than a driver's license as provided for under subsection (a.1) of this Code section or a special identification card as provided for under subsection (d) of Code Section 40-5-21.1, respectively; provided, however, that any person who possesses an Employment Authorization Document from the United States Citizenship and Immigration Services with an unlawful immigration status EAD code and who has a valid driver's license or special identification card other than a driver's license as provided for under subsection (a.1) of this Code section or a special identification card as provided for under subsection (d) of Code Section 40-5-21.1 shall, upon expiration of such driver's license or special identification card, be subject to the provisions of subsection (a.1) of this Code section and subsection (d) of Code Section 40-5-21.1."

SECTION 5.

Said title is further amended by revising Code Section 40-5-21.1, relating to temporary licenses, permits, or special identification cards, foreign licenses or identification cards as evidence of legal presence in the United States, and extensions, as follows:

"40-5-21.1.

(a) Except as provided for in subsections (a.1) and (a.2) of Code Section 40-5-20, notwithstanding Notwithstanding any other provision of this title, an applicant who presents in person valid documentary evidence of:

- (1) Admission to the United States in a valid, unexpired nonimmigrant status;
 - (2) A pending or approved application for asylum in the United States;
 - (3) Admission into the United States in refugee status;
 - (4) An approved application for temporary protected status in the United States

132 (5) Approved deferred action on deportation status;

133 (6)(5) Other federal documentation verified by the United States Department of
134 Homeland Security to be valid documentary evidence of lawful presence immigration
135 status in the United States under federal immigration law; or

136 (7)(6) Verification of lawful presence immigration status as provided by Code Section
137 40-5-21.2

138 may be issued a temporary license, permit, or special identification card. Such temporary
139 license, permit, or special identification card shall be valid only during the period of time
140 of the applicant's authorized stay in the United States or five years, whichever occurs first.
141 Such temporary license, permit, or special identification card issued on and after July 1,
142 2019, shall include the term, 'NOT U.S. CITIZEN' alongside the photograph of the bearer
143 of such license, permit, or card.

144 (b) A driver's license or identification card issued by any state or territory which, on or
145 after July 1, 2006, authorized such driver's license or identification card to be issued to
146 persons not lawfully present without lawful immigration status in the United States may
147 not be accepted as evidence of ~~legal presence~~ lawful immigration status in the United
148 States.

149 (c) Any noncitizen applicant whose Georgia driver's license or identification card has
150 expired, or will expire within 30 days, and who has filed, or on whose behalf has been
151 filed, a request for an extension with the United States Department of Homeland Security,
152 or similar such federal issuing agency, for time to remain lawfully within the United States
153 shall be issued a temporary driving permit or identification card valid for ~~120~~ 60 days from
154 the date of the expiration of his or her valid driver's license or identification card. The
155 noncitizen applicant shall be required to present evidence of the application for extension
156 by submitting a copy or copies of documentation designated by the department. A
157 temporary driving permit or identification card shall be issued upon submission of the
158 required documentation and an application fee in an amount to be determined by the
159 department. Upon the expiration of the temporary driving permit or identification card, no
160 further consecutive temporary permits or identification cards shall be authorized; provided,
161 however, that application may be made following the expiration of an additional valid
162 Georgia driver's license or identification card.

163 (d)(1) Notwithstanding any other provision of this title, an applicant who possesses an
164 Employment Authorization Document from the United States Citizenship and
165 Immigration Services with an unlawful immigration status EAD code may be issued a
166 special identification card which shall be valid only during the period of time of the
167 applicant's possession of an unlawful immigration status EAD code or two years,
168 whichever occurs first. Notwithstanding any other provision of this title and except as

otherwise provided for in this subsection, such special identification card shall in every way conform to the provisions governing personal identification cards provided for by this title, including but not limited to fees, proof of birth date, unlawful use, issuances, renewals, and replacements.

(2) Prior to the issuance of such special identification card as provided for in paragraph (1) of this subsection, the department shall obtain the fingerprints of the applicant.

(3)(A) In accordance with the REAL ID Act of 2005, 8 U.S.C. Section 1101 et seq., the department shall distinguish the special identification card provided for in this subsection from other personal identification cards issued by the department by the use of a unique design and color and have a vertical orientation.

(B) A special identification card provided for in this subsection shall, in white letters displayed on a black banner positioned at the top or bottom, or both, of the special identification card, include the term, 'NOT FOR FEDERAL USE'. Other than as provided for in this paragraph, such special identification card shall contain the same physical characteristics of, and be similar in form to, other personal identification cards issued by the department."

SECTION 6.

Said title is further amended by revising subsection (b) and by adding new subsections to Code Section 40-5-21.2, relating to compliance with the Systematic Alien Verification for Entitlements Program, application, and implementation, to read as follows:

"(b) The department shall utilize the following procedures in this subsection before issuing an identification card, license, permit, or other official document to an applicant who is a noncitizen:

(1) The department shall attempt to confirm through the SAVE program that whether the applicant is lawfully present in the United States has an unlawful immigration status EAD code; and

(2) If the SAVE program does not provide sufficient information to the department to make a determination, the department shall be authorized to accept verbal or e-mail, email, or other means of confirmation of the legal lawful immigration status of the applicant from the Department of Homeland Security, including, but not limited to, confirmation of such noncitizen's possession of an Employment Authorization Document and whether such Employment Authorization Document contains an unlawful immigration status EAD code."

"(e) A person determined to possess an Employment Authorization Document from the United States Citizenship and Immigration Services with an unlawful immigration status

EAD code pursuant to this Code section shall be eligible for a driver's license as provided for in subsection (a.1) of Code Section 40-5-20 or a special identification card as provided for in subsection (d) of Code Section 40-5-21.1.

208 (f) The department shall maintain a permanent record of the codes on Employment
209 Authorization Documents that the department uses in issuing an identification card, license,
210 permit, or other official document to an applicant under this chapter. Such record shall be
211 open to public inspection pursuant to Chapter 18 of Title 50.

212 (g) For purposes of this chapter, lawful immigration status shall be as provided for by the
213 United States Citizenship and Immigration Services as reflected in Employment
214 Authorization Document code definitions issued by the United States Citizenship and
215 Immigration Services."

SECTION 7.

217 Said title is further amended by revising subsection (a) of Code Section 40-5-28, relating to
218 the issuance of licenses and contents, as follows:

219 "(a) Except as provided in subsection (c) of this Code section, the department shall, upon
220 payment of the required fee, issue to every applicant qualifying therefor a driver's license
221 indicating the type or general class of vehicles the licensee may drive, which license shall
222 be upon a form prescribed by the department and which shall bear thereon a distinguishing
223 number assigned to the licensee, a photograph of the licensee, the licensee's full legal name,
224 either a facsimile of the signature of the licensee or a space upon which the licensee shall
225 write his or her usual signature with a pen and ink immediately upon receipt of the license,
226 and such other information or identification as is required by the department. No license
227 shall be valid until it has been so signed by the licensee. Except as provided for under
228 Code Section 40-5-20 or 40-5-21.1, the The department shall not require applicants to
229 submit or otherwise obtain from applicants any fingerprints or any other biological
230 characteristic or information which uniquely identifies an individual, including without
231 limitation deoxyribonucleic acid (DNA) and retinal scan identification characteristics but
232 not including a photograph, by any means upon application."

SECTION 8.

234 Said title is further amended by revising paragraphs (1), (2), and (3) of Code Section
235 40-5-120, relating to the unlawful use of license or identification card and penalties for
236 violations of chapter generally, as follows:

237 "(1) Display or cause or permit to be displayed or have in his or her possession any
238 canceled, revoked, or suspended driver's license or personal identification card issued
239 pursuant to ~~Code Section 40-5-100~~ this chapter;

240 (2) Fail or refuse to surrender to the department upon lawful demand any driver's license
241 or personal identification card issued pursuant to ~~Code Section 40-5-100~~ this chapter
242 which has been suspended, revoked, disqualified, or canceled;
243 (3) Permit any unlawful use of a driver's license or personal identification card issued
244 pursuant to ~~Code Section 40-5-100~~ this chapter issued to such person;"

SECTION 9.

246 Said title is further amended by adding a new Code section to Chapter 16, relating to the
247 Department of Driver Services, to read as follows:

248 "40-16-9.

249 On or after July 1, 2019, the department shall participate in the Records and Information
250 from DMVs for E-Verify (RIDE) program of the United States Department of Homeland
251 Security. The commissioner shall promulgate rules and regulations for the department's
252 participation in such program."

SECTION 10.

254 This Act shall become effective upon its approval by the Governor or upon its becoming law
255 without such approval.

SECTION 11.

257 All laws and parts of laws in conflict with this Act are repealed.